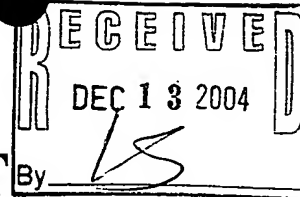


PATENT COOPERATION TREATY



From the
INTERNATIONAL PRELIMINARY EXAMINING AUTHORITY

PCT

By

WRITTEN OPINION

(PCT Rule 66)

13 MAY 2005

To:
ROBERT M. ANGUS
WESTMAN, CHAMPLIN & KELLY, P.A.
SUITE 1600-INTERNATIONAL CENTRE
900 SECOND AVENUE SOUTH
MINNEAPOLIS, MN 55402-3319

Date of Mailing (day/month/year)		10 DEC 2004								
Applicant's or agent's file reference		REPLY DUE within 1 months/days from the above date of mailing								
International application No.	International filing date (day/month/year)	Priority date (day/month/year)								
PCT/US03/27852	05 September 2003 (05.09.2003)	13 November 2002 (13.11.2002)								
International Patent Classification (IPC) or both national classification and IPC										
IPC(7): A01K 29/00 and US Cl.: 119/710										
Applicant		<table border="1"> <tr> <td>DOCKETED</td> <td></td> </tr> <tr> <td>RESPONSE DUE</td> <td>1-10-05</td> </tr> <tr> <td>CALENDARED</td> <td>1-10-05</td> </tr> <tr> <td>CHECKED BY</td> <td>1-10-05</td> </tr> </table>	DOCKETED		RESPONSE DUE	1-10-05	CALENDARED	1-10-05	CHECKED BY	1-10-05
DOCKETED										
RESPONSE DUE	1-10-05									
CALENDARED	1-10-05									
CHECKED BY	1-10-05									
PREMIER PET PRODUCTS, LLC										

- This written opinion is the first (first, etc.) drawn by this International Preliminary Examining Authority.
- This opinion contains indications relating to the following items:
 - ☒ Basis of the opinion
 - ☐ Priority
 - ☐ Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
 - ☐ Lack of unity of invention
 - ☒ Reasoned statement under Rule 66.2 (a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
 - ☐ Certain documents cited
 - ☒ Certain defects in the international application
 - ☐ Certain observations on the international application
- The applicant is hereby invited to reply to this opinion.

When? See the time limit indicated above. ~~The applicant may, before the expiration of that time limit, request this Authority to grant an extension. See rule 66.2(d).~~

How? By submitting a written reply, accompanied, where appropriate, by amendments, according to Rule 66.3. For the form and the language of the amendments, see Rules 66.8 and 66.9.

Also For an additional opportunity to submit amendments, see Rule 66.4.
For the examiner's obligation to consider amendments and/or arguments, see Rule 66.4 bis.
For an informal communication with the examiner, see Rule 66.6

If no reply is filed, the international preliminary examination report will be established on the basis of this opinion.
- The final date by which the international preliminary examination report must be established according to Rule 69.2 is: 13 March 2005 (13.03.2005)

Name and mailing address of the IPEA/US Mail Stop PCT, Attn: IPEA/US Commissioner for Patents P.O. Box 1450 Alexandria, Virginia 22313-1450	Authorized officer Peter Poon Telephone No. 703/308-1113
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Facsimile No. (703) 305-3230

WRITTEN OPINION

International application

PCT/US03/27852

I. Basis of the opinion

1. With regard to the elements of the international application:*

☒ the international application as originally filed

☒ the description:

pages 1-19, as originally filed

pages NONE, filed with the demand

pages NONE, filed with the letter of _____.

☒ the claims:

pages 20-24, as originally filed

pages NONE, as amended (together with any statement) under Article 19

pages NONE, filed with the demand

pages NONE, filed with the letter of _____.

☒ the drawings:

pages 1-8, as originally filed

pages NONE, filed with the demand

pages NONE, filed with the letter of _____.

☐ the sequence listing part of the description:

pages NONE, as originally filed

pages NONE, filed with the demand

pages NONE, filed with the letter of _____.

2. With regard to the language, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language _____ which is:

☐ the language of a translation furnished for the purposes of international search (under Rule 23.1(b)).

☐ the language of publication of the international application (under Rule 48.3(b)).

☐ the language of the translation furnished for the purposes of international preliminary examination (under Rules 55.2 and/or 55.3).

3. With regard to any nucleotide and/or amino acid sequence disclosed in the international application, the written opinion was drawn on the basis of the sequence listing:

☐ contained in the international application in printed form.

☐ filed together with the international application in computer readable form.

☐ furnished subsequently to this Authority in written form.

☐ furnished subsequently to this Authority in computer readable form.

☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.

☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. ☐ The amendments have resulted in the cancellation of:

☐ the description, pages NONE

☐ the claims, Nos. NONE

☐ the drawings, sheets/fig NONE

5. ☐ This opinion has been drawn as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).

* Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this opinion as "originally filed."

WRITTEN OPINION

International application No.
PCT/US03/27852

V. Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. STATEMENT

Novelty (N)	Claims <u>3, 4, 7, 9-13, 18</u>	YES
	Claims <u>1, 2, 5, 6, 8, 14-17, 19-22</u>	NO
Inventive Step (IS)	Claims <u>3, 4, 7, 12, 13, 18</u>	YES
	Claims <u>1, 2, 5, 6, 8-11, 14-17, 19-22</u>	NO
Industrial Applicability (IA)	Claims <u>1-22</u>	YES
	Claims <u>NONE</u>	NO

2. CITATIONS AND EXPLANATIONS

Claims 1, 2, 5, 6, 8, 14-17 lack novelty under PCT Article 33(2) as being anticipated by Beck. The buck lure 10 of Beck includes first concave molded member 14, second concave molded member 12, first center hub in the form of a male fastener 50, second center hub 18 with a female fastener 30, and a cavity encompassed both by the interiors of the molded members 12, 14 as well as the volume of space between them. An animal treat could be placed within the cavities formed by the molded members 12, 14, or the members 12, 14 could be screwed together to clamp an animal treat between them. As to claim 14, the liquid-impregnated cotton 36 is deemed to constitute a treat.

Claims 9-11 lack an inventive step under PCT Article 33(3) as being obvious over Beck. Although the composition of male fastener 50 of Beck is not disclosed, use of a material-such as nylon-different from that comprising the members 12, 14 would have been obvious to one skilled in the art wishing to reduce construction costs of the lure, increase durability, and minimize the potential for jamming while the male fastener 50 is turned relative to female fastener 30.

Claims 19-22 lack novelty under PCT Article 33(2) as being anticipated by Petit. The feeder 10 of Petit includes an edible, toroidal body 22 in the form of a doughnut. It is considered to comprise a plurality of edible pieces adhered together by binding constituents of the dough. As to claims 19, 22, elements of the treat-retaining toy have not been given weight inasmuch as these claims are drawn to the treat itself and not the toy-the latter is recited only functionally in the preamble of claim 19.

Claims 3, 4, 7, 12, 13, 18 meet the criteria set out in PCT Article 33(2)-(3), because the prior art does not teach or fairly suggest a pet toy having (1) first and second concave members and a fastener extending between them, with the first and second members having arcuate notches on peripheral edges or (2) first and second concave members with first and second hubs, wherein a threaded fastener threadably engages both the first and second center hubs or (3) first and second concave members, with a first center hub having a plurality of defined seat portions and a second center hub having a ledge portion able to fit in each seat portion.

----- NEW CITATIONS -----

US 2,959,354 A (BECK) 08 November 1960 (08.11.1960), see column 2, lines 10-46.

US 5,076,214 A (PETIT) 31 December 1991 (31.12.1991), see column 2, lines 60-67.

WRITTEN OPINION

International application No.

PCT/US03/27852

VII. Certain defects in the international application

The following defects in the form or contents of the international application have been noted:

The description is objected to as containing the following defect(s) under PCT Rule 66.2(a)(iii) in the form or contents thereof: On page 5, line 25, threads 113 of Figures 1, 2 appear to be male threads, in line 26, threads 114 of Figures 1, 2 seem to be female-type threads.

Claim 20 is objected to under PCT Rule 66.2(a)(iii) as containing the following defect(s) in the form or contents thereof: In line 5, "treats" should be changed to -pieces-.

WRITTEN OPINION

International application No.
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Supplemental Box

(To be used when the space in any of the preceding boxes is not sufficient)

TIME LIMIT:

The time limit set for response to a Written Opinion may not be extended. 37 CFR 1.484(d). Any response received after the expiration of the time limit set in the Written Opinion will not be considered in preparing the International Preliminary Examination Report.